TRAVANCORE
GOVERNMENT GAZETTE
SUPPLEMENT.

FRIDAY
8th Feb. 1895.

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Abstract Proceedings of the Travancore Legislative Council.

An extraordinary meeting of the Council was held in the Dewan's room, Public Offices, at 12 noon on Wednesday, the 12th December 1894, to consider the Jenmi and Tenant Bill.

PRESENT:—

The Dewan ... ...*Presiding.*
M. R. Ry. K. Krishnaswamy Rao Avergal.
Mr. F. Watts.
M. R. Ry. V. Nagam Iyer Avergal.
M. R. Ry. Rama Vurma Avergal, Raja of Perapanad.
M. R. Ry. R. Ramanatha Rao Avergal.
M. R. Ry. A. M. Muthunayagom Pillay Avergal.

Papers circulated.

The Secretary presented the following papers. As copies were previously furnished to the members, they were taken as read.

1. Mr. Ramanatha Rao's amendments to the Jenmi and Tenant Bill.
2. Mr. Nagam Iyer's Do. Do.
3. Mr. Muthunayagom Pillay's Do. Do.
4. Petition from Mathai Ousep of Poonjat protesting against the provisions of the Jenmi and Tenant Bill being applied to the Poonjat Edavagay.
5. Petition from the inhabitants of Alengad suggesting amendments to the Jenmi and Tenant Bill.
6. Petition from Kanakku Govinden Govinden of Edacherry, Mavalikaray, about the treatment of the Vettyat Edavagay lands.
7. A proposed definition of the term 'Jenmom land.'

JENMI AND TENANT BILL.

Mr. Muthunayagom Pillay moved that in the Preamble to the Bill the words 'referred to' be substituted for 'recited.'

Mr. Watts seconded the motion.

Carried.

Mr. Watts moved that, in lieu of the definition of 'Jenmom land' put forward as tentative, and published with the Proceedings of the meeting of the 14th August last, the following definition be adopted.

"'Jenmom land' means land which possesses all and every one of the following characteristics:—

(*a*) That it does not fall under the class of Pandaravagay (including Nayar Viruthy or Service Inam), Sreepandaravagay, Kundukrishi, Sircar Devaswom lands recognised as such in the accounts.

(*b*) That it is either entirely exempt from Government tax, or if assessed to public revenue, is subject only to Rajabhogom.

(*c*) That though its entry in the Thandapare may be in the name of the actual tax-payer, such entry contains specific reference to the original proprietor also.

(*d*) The occupancy right over the land is created for a money consideration and is subject to the conditions (1) of paying a residual rent or Michavarom and customary dues or Avakasoms, and (2) of periodical renewal of the right on payment of renewal fees."

In seconding the motion, Mr. Krishnaswamy Rao said :—

"From the Memorandom of Rajah Sir. T. Madhava Rao, drawn up before the issue of the Royal Proclamation dated 25th Karkadagam 1042, I gather that he intended to bring the Non-Brahmin Jenmies within the scope of the Proclamation. The absence in the Proclamation of the definition of the word "Jenmi," the generally accepted meaning of this word, viz. the Namburi landlord, and the principle of law that all statutes which interfere with the freedom of contract, should be literally construed, led the Courts to interpret the word "Jenmi" in the Proclamation as Malayali Brahmin Jenmies. It is open to the legislature to remove the ambiguity in the Proclamation by a definition of the word "Jenmom," so as to give effect to the intention of the framer of the said Proclamation. The Non-Brahmin Jenmies had ample time to express their views on the proposal to bring them under the proposed law. With the exception of two, the Non-Brahmin Jenmies have not protested against the proposal. I have no doubt that the Council will allow such further provisions to be made, as would effectually protect vested interests, and remove any hardship that the application of the proposed law in its present form to leases executed since 1042, might create."

The Rajah of Perapanad observed :—

"I doubt the wisdom of disturbing, by the extension of the scope of the Jenmi and Tenant Bill, the judicial decisions of our courts which have so long held that none but Malayalee Jenmies and their Devaswams would come within the scope of the Royal Proclamation.

The Royal Proclamation itself, as I said in my Memorandum dated 15th June 1890, has been strongly objected to, being an unnecessary state interference with the vested rights of the Jenmies. This Proclamation, not called for by any such emergency as would justify such a violent measure as it is, has already shaken to the very foundation the sense of security in this State so far as property in land is concerned. The Jenmies in Cochin and Malabar stood as such on equal footing with the Jenmjes in Travancore. Why did no one ever think seriously there to introduce some such measure as our Royal Proclamation? For the simple reason that there the Jenmies would not so easily submit to it as here. Mr. Logan, a Collector of Malabar, once ventured to entertain the idea of taking away by a Legislative act the powers of the Malabar Jenmies to redeem from their Tenants, lands held under Kanapattom. He sketched out an elaborate scheme to effect his long-cherished desire, but finding that the Madras Government and the Judges of the Madras High Court whom that Government consulted on the subject were strongly against his scheme to deprive the Malabar Jenmies of their just and lawful right to make such use of their lands as they please, gave up the idea of carrying his scheme into effect. A man digs up a diamond buried in earth, takes it to a jeweller's shop and there gets it cut and polished. Has he not the exclusive right and power to dispose of in regard to this diamond? In the same way, a man finds and takes first possession of a land till then lying waste. He spends some money and improves it. I do not understand why there should be any difference between the right to dispose of in regard to the diamond on the one side and the land on the other side. That land is a limited quantity, but some portion of it is an indispensible requisite to each and every member of the community. This and some such other reasons justifying violent land legislations can have no force in a country where there are waste lands to be found and appropriated. Nationalization of the land and equal distribution of property are too advanced questions of political economy for us to discuss at the stage of our progress. However, the Proclamation has been in force for more than a quarter of a century and other classes of vested interests have also sprung up. Now to repeal the Royal Proclamation is to assail the sense of security a second time which we should avoid doing. For the same reason, we should not disturb the judicial decisions based on which have come into existence new interests. I am strongly against the extension of

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the scope of the Bill. There must be some distinction between the Brahmin and other Jenmies, for the reason that Brahmin Jenmies have their jenmom lands free of all taxation. This is a special privilege to our Jenmies in distinction to this class in Malabar for which they must make some sacrifice. They may be asked to surrender their rights to redeem their lands from their Kanom Tenants in consideration of the advantages they enjoy. The impression that kanapattom tenure was once a permanent tenure in Travancore is entirely baseless. It may be true that in the old days Jenmies rarely evicted their Kanamdars. I am not prepared to admit that the simple Kanamdar's rights would ripen into a permanent right by long possession. I must tell you the truth—the Royal Proclamation and the Bill we are now considering have been considered by the majority of the population as a measure intended to benefit a favoured class (the Kanamdars). It does much harm to the jenmies but no good to the actual cultivators who improve the lands at their expense and labour. The great majority of the Kanamdars have simply invested their money on the security of the lands. It is the actual cultivators who now stand in need of our support."

Mr. Muthunayagom Pillay observed as follows:—

"The Royal Proclamation of Karkadagom 1042 did not define the word "Jenmi"; but the Courts being left to determine the meaning of the term have held that Brahmins alone are the Jenmies to whom the Proclamation applies. A perusal of the able memorandum of Sir T. Madhava Rao on the vexed question of the Kanapattom tenure of Travancore shows that he perhaps intended to render irredeemable all kanapattoms then existing; but the distinction between the two classes of Jenmies does not seem to have been present to his mind.

"The Jenmi and Tenant Commission has recommended the express inclusion in the definition of the term 'Jenmi' of certain non-Brahmins only, namely those who are representatives of Edavagays or Swaroopams (petty Chiefships.) The Legislative Council of 1069, however, seems to have resolved by an overwhelming majority that no distinction of any kind should be made between Kanapattoms granted by the Brahmin and the non-Brahmin proprietors of Jenmom lands. Though it may be gathered from the above that the concensus of recent opinion is that the narrow interpretation of the Proclamation adopted by the Courts is undesirable, the question still remains how far the legislature may safely proceed in extending the operation of the Proclamation.

"While I do not go the length to which my learned friend, the Rajah of Perapanad, seems inclined to do, I would not go to the other extreme either and say that all non-Brahmin proprietors of Jenmom lands, should be pulled down to the level of the Brahmin Jenmi. My position is that such of the non-Brahmin proprietors alone should be regarded as Jenmies as have hitherto been conducting themselves in their relation with their Kanapattom tenants *in all respects* as the Brahmin Jenmies."

The Council adjourned to the following day.

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